

REMARKS

Claims 1-27, 30-38 and 42-51 are in the application. Claims 28, 29, and 39-41 have been canceled. Claims 26 and 36 have been amended. No new matter has been added. Claims 1-25, 30, 32-35, 38 and 42-51 are withdrawn from consideration. Claims 26, 27, 31, 36, 37, and 39-41 have been examined. No claim is allowed.

Claims 26, 27, 31, 36, 37 and 39-41 are rejected under 35 USC 103(a) as being unpatentable over Guinn et al ('648, "Guinn") in view of Graves et al ('067, "Graves"). This rejection is respectfully traversed and reconsideration is requested in view of the following. The examiner notes that the primary reference Guinn does not explicitly teach receiving enrollment data from a second player including authorization data indicative of the second player authorizing a software agent to play games in the gaming tournament on behalf of the second player, the software agent to be executed by a proxy computer; enabling the software agent to play at least one game via the proxy computer during the gaming tournament time; determining a first winning player, if any, from the plurality of first players and the second player based on outcomes of the games played by the plurality of first players and the software agent; and if the first winning player is determined, generating data indicative of a first value payout to be awarded to the first winning player. Applicants point out that Guinn also does not teach configuring a game playing behavior of the software agent to allow the second player to select playing behavior corresponding to categories of particular predetermined skill levels. Claim 26 has been amended to incorporate this feature, which is supported in the specification at page 38, lines 21 to p. 39, line 17; page 39, line 27 to p. 40, line 9; and page 41, lines 19-24. From these passages it is evident that the particular skill levels are predetermined and pre-existing in the machine, not learned from the player. For example, the player may simply enable the software agent (p. 38, line 30 ff.), then the agent can begin playing (p. 39, lines 8-9; lines 14-17). There is no learning process as required by Graves, as discussed below.

The examiner relies upon Graves to show features in the claims not taught by Guinn. However, in Guinn the gaming machine is taking its playing decision instructions for the player. Even if the machine learns how the player makes decisions (Graves 3:10-12) those decisions are derived by the player's past playing decisions. Therefore, there is no teaching either in Guinn or Graves of configuring game player behavior into categories of predetermined skill levels that may

be selected by the actual player without learning how the actual player plays. These categories are exemplified in the specification herein, for example, on page 59, lines 24-25. The “High” skill level, for example, is not necessarily the actual skill level of any player or of any famous personality. But it is predetermined before the player even starts to play for the first time since it is configured into the machine. The machine needs no decision input as play progresses in the manner described by Graves. Therefore, even modifying Guinn with Graves does not arrive at Applicants’ invention.

Accordingly, it is submitted that it would not have been obvious to one of ordinary skill in the gaming machine art at the time the invention was made to provide a gaming system and method in accordance with the present claims.

Should the Examiner believe that a telephone conference would expedite the prosecution of this application, the undersigned can be reached at the telephone number set out below.

Respectfully submitted,
Weaver Austin Villeneuve & Sampson LLP

/Reginald J. Suyat/
Reginald J. Suyat
Reg. No. 28,172

P.O. Box 70250
Oakland, CA 94612-0250
510-663-1100